

REMARKS

Status of the Claims

Claims 1-4, 7-9, 11-19, 22, 23, 26-28, 30-38, 40-45, 47-57, 63, 69, 75, 77, 79, 80, 86, 89, 97, and 99 were pending in the application.

Claims 1-4, 7-9, 11, 15-19, 22, 23, 26-28, 30, 34-38, 40-45, 47, 48, and 52-57 were rejected.

By way of this amendment, claims 1, 23 and 44 have been amended, and claims 12-14, 31-33, 40, 49-51, 63, 69, 75, 77, 79, 80, 86, 89, 97 and 99 have been canceled.

Upon entry of this amendment, claims 1-4, 7-9, 11, 15-19, 22, 23, 26-28, 30, 34-38, 41-45, 47, 48 and 52-56 will be pending.

Summary of the Invention

Claims 1, 23 and 44 have been amended to add specific steps to the methods. support for the amendments is found throughout the specification as filed such as on pages 1, 17, 18, 26, 27 and 56-61. No new matter has been added.

Claims 12-14, 31-33, 49-51, 63, 69, 75, 77, 79, 80, 86, 89, 97 and 99 have been canceled as drawn to non-elected subject matter.

Claim 40 has been canceled as being redundant.

Rejection Under 35 U.S.C. 103

Claims 1-4, 7-9, 11, 18, 19, 22, 23, 26-28, 30, 37, 38, 40-45, 47, 48, and 55-57 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schwartz, *et. al.*, WO 200261037 A2 (hereinafter “Schwartz”) in view of Aihara, *et al.*, *Nature Biotech.*, 16:867-870, 1998 (hereinafter “Aihara”) and Simon, US 6,928,318 (hereinafter “Simon”). Applicants traverse the rejection and respectfully request that the rejection be withdrawn.

The Official action notes at page 5 that “the cited references are silent with respect to involuntary cull and body condition score” but that “the combined references render obvious all of the claimed active method steps.”

Claims 1, 23 and 44 have been amended to recite additional method steps.

Claim 1 as amended refers to culling farm animals including the steps of voluntary and involuntary culling whereby involuntary culling is reduced by administration of nucleic acid molecules that encode GHRH. None of Schwartz, Aihara, and Simon refers to culling farm animals including the steps expressly recited in the claim as amended. The amendment obviates the basis of rejection.

Claim 23 as amended refers to evaluating BCS and re-evaluating BCS in addition to the steps involved in administration of nucleic acid molecules that encode GHRH. None of Schwartz, Aihara, and Simon refers to evaluating BCS of farm animals including the steps expressly recited in the claim as amended. The amendment obviates the basis of rejection.

Claim 44 as amended refers to determining milk production, administration of nucleic acid molecules that encode GHRH, and determining milk production at a different time point. None of Schwartz, Aihara, and Simon refers to determining milk production including the steps expressly recited in the claim as amended. The amendment obviates the basis of rejection.

The claimed invention is not obvious in view of the combination of Schwartz, Aihara, and Simon. Applicants respectfully request that the rejection of claims 1-4, 7-9, 11, 18, 19, 22, 23, 26-28, 30, 37, 38, 40-45, 47, 48, and 55-57 under 35 U.S.C. §103(a) as being unpatentable over 264 in view of Schwartz, Aihara, and Simon be withdrawn.

Claims 15-17, 34-36, and 52-54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schwartz, in view of Aihara, Simon, and further in view of Fewell, *et. al.*, US 2003/0109478 (hereinafter “Fewell”). Applicants traverse the rejection and respectfully request that the rejection be withdrawn.

Nothing in Fewell supplements the deficiencies in the combination of Schwartz, Aihara and Simon as discussed above. Fewell does not referring to culling animals including voluntary

and involuntary culling. Fewell does not referring to evaluating BCS. Fewell does not referring to determining milk production.

The claimed invention is not obvious in view of the combination of Schwartz, Aihara, Simon, and Fewell. Applicants respectfully request that the rejection of claims 15-17, 34-36, and 52-54 under 35 U.S.C. §103(a) as being unpatentable over Schwartz, Aihara, Simon, and Fewell be withdrawn.

Double Patenting

Claims 1-4, 7-9, 11, 18, 19, 22, 23, 26-28, 30, 37, 38, 40-45, 47, 48 and 55-57 stand rejected on the ground of obviousness type double patenting as being unpatentable over claims 21-23 of U.S. Patent No. 6,423,693 in view of Schwartz and Simon.

Claims 1, 23 and 44 have been amended to recite additional method steps. Neither claim 21-23 of U.S. Patent No. 6,423,693 nor Schwartz nor Simon refers to culling farm animals including the steps expressly recited in claim 1 as amended. Neither claim 21-23 of U.S. Patent No. 6,423,693 nor Schwartz nor Simon refers to evaluating BCS of farm animals including the steps expressly recited in the claim as amended. Neither claim 21-23 of U.S. Patent No. 6,423,693 nor Schwartz nor Simon refers to determining milk production including the steps expressly recited in the claim as amended. The amendment obviates the basis of rejection.

Claims 15-17, 34-36 and 52-54 stand rejected on the ground of obviousness type double patenting as being unpatentable over claims 21-23 of U.S. Patent No. 6,423,693 in view of Schwartz and Simon and further in view of Fewell.

Claims 1, 23 and 44 have been amended to recite additional method steps. Neither claim 21-23 of U.S. Patent No. 6,423,693 nor Schwartz nor Simon nor Fewell refers to culling farm animals including the steps expressly recited in claim 1 as amended. Neither claim 21-23 of U.S. Patent No. 6,423,693 nor Schwartz nor Simon nor Fewell refers to evaluating BCS of farm animals including the steps expressly recited in the claim as amended. Neither claim 21-23 of U.S. Patent No. 6,423,693 nor Schwartz nor Simon nor Fewell refers to determining milk

production including the steps expressly recited in the claim as amended. The amendment obviates the basis of rejection.

Conclusion

Claims 1-4, 7-9, 11-19, 22, 23, 26-28, 30-38, 40-45, 47-56, 63, 69, 75, 77, 79, 80, 86, 89, 97, and 99 are in condition for allowance. A notice of allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any deficiencies of fees and credit of any overpayments to Deposit Account No. 50-0436.

Respectfully Submitted,

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